

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL STERLING, #186809,

Petitioner,

v.

CIVIL CASE NO. 05-40190
HONORABLE PAUL V. GADOLA

THOMAS BELL,

Respondent.

**ORDER DENYING A CERTIFICATE OF APPEALABILITY AND DENYING LEAVE
TO PROCEED ON APPEAL IN FORMA PAUPERIS**

Petitioner has filed a notice of appeal concerning this Court's dismissal of his habeas petition on mootness grounds and his subsequent motion to amend or correct. Before Petitioner may appeal this Court's dispositive decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). The Court must either issue a certificate of appealability indicating which issues satisfy the required showing or provide reasons why such a certificate should not issue. 28 U.S.C. § 2253(c)(3); Fed. R. App. P. 22(b); *In re Certificates of Appealability*, 106 F.3d 1306, 1307 (6th Cir. 1997).

A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a federal district court rejects a habeas claim on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the district court's assessment of the constitutional claim debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). "A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve

encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In applying this standard, a district court may not conduct a full merits review, but must limit its examination to a threshold inquiry into the underlying merit of the petitioner’s claims. *Id.* at 336-37.

When a federal district court denies a habeas claim on procedural grounds without addressing the claim’s merits, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *See Slack*, 529 U.S. at 484-85.

Having reviewed the matter, the Court concludes that Petitioner has not made a substantial showing of the denial of a constitutional right, nor has he shown that reasonable jurists would find it debatable whether this Court’s ruling was correct. Petitioner contested his 2002 parole revocation proceedings in this case. Petitioner, however, completed the sentence imposed upon him by the 2002 revocation of his parole when he was re-released on parole on March 20, 2007. He has not shown that he suffers continuing collateral consequences from the challenged decision. Any injury that Petitioner suffered during the 2002 parole proceedings cannot be redressed by a favorable decision from this Court. Petitioner’s habeas claims are moot. Accordingly, the Court **DENIES** a certificate of appealability. The Court further concludes that an appeal cannot be taken in good faith and thus **DENIES** leave to proceed on appeal *in forma pauperis*, *see* Fed. R. App. P. 24(a).

SO ORDERED.

Dated: September 10, 2007

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 10, 2007 , I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Raina I. Korbakis , and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Michael Sterling .

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
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